

DF

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ MAR 02 2012 ★

LONG ISLAND OFFICE

MEMORANDUM & ORDER  
07-CV-4018 (TCP) (ARL)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
SLEEPY'S LLC,

Plaintiff,

- against -

SELECT COMFORT WHOLESALE  
CORPORATION, SELECT COMFORT  
RETAIL CORPORATION, and SELECT  
COMFORT CORPORATION,

Defendants.  
-----X

PLATT, District Judge.


Before the Court are two motions: (1) Plaintiff's motion (ECF No. 662) for An Order Adopting the Special Master's Memorandum & Order (ECF No. 655); and (2) Defendant's motion (ECF No. 669) to Modify, In Part, the Special Master's Memorandum & Order (ECF No. 655).

As the Defendant notes, "[t]he Court may 'adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions.' However, the Court must decide de novo all 'objections to findings of fact' and 'all conclusions of law made or recommended by a master.' " Def.'s Mem. at 1, ECF No. 670 (citing Fed. R. Civ. Pro. 53(f)(1); (2)-(3)). Defendant seeks to modify the Special Master's Order to make the Order without prejudice to renew at trial. *See id.* at 2.

After reviewing the facts relevant to the Special Master's Order, the Court, for the reasons set forth in the Special Master's Memorandum & Order, **GRANTS** Plaintiff's motion (ECF No. 662) and **DENIES** Defendant's motion (ECF No. 669).

**SO ORDERED.**

Dated: <sup>Man</sup>February 2, 2012  
Central Islip, New York

  
\_\_\_\_\_  
Thomas C. Platt, U.S.D.J.